

Spouse Maintenance according to the Law approved in Iran and England

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Abstract

Cost of maintenances is one of the most important discussions in family law, which contains the essential factors for proper life. In this research, the above subject based on the comparison between the family right in Britain and Iran has been studied. There are many differences and similarities between these two systems, which are taken from habits, religions, and the government points of view in Iran and England. Regarding the criterion of cost of maintenance, some legislators emphasize the wives' life before marriage while others pay attention to the conditions of life after marriage. In England the rights due to cost of maintenance have been changed noticeably since 1950. Regarding the comparison of cost of maintenance in Iran it is compulsory and it is not an agreement one but in England it is complementary and based on an agreement one. In this research, we can point to some important subjects such as the nature of wife right in cost of maintenance, the special features of cost of maintenance, the wife cost of maintenance after marriage dissolution, confirmation of cost of maintenance and its guaranty. The legislator in Iran's right system has added some special conditions which, in comparison to other right systems of other countries, are unique.

Keywords: Cost of Maintenance, Iran law, England law, wife, Marriage

Introduction

Once the marriage occurs properly, the rights and obligations for the couple will be created while in the law it is called "Marriage Effects", in this regard Article 1102 of the Civil Code states that: "Once the marriage occurs truly, the marital relationships between the couple, the rights and obligations of couple against each other will be established". One of the most important Marriage Effects is "The cost of Maintenance" which has its specific rules in each legal system. Although the family shall be committed to the ethical principles but the recourse to legal enforcement and referring to legal authorities as the last treatment shall be utilized in case of necessity. It is obvious that in each legal system, regarding to its faith and religion or its customary law and common practice establishes its financial rights and obligations for each of the couple, by which it attempts to balance the rights of spouses. One of its rights and obligations is the cost of maintenance that its regulations are different in legal systems. The significance and the research necessity arise while nowadays one of the important issues of interest to the international communities is to maintain women's rights, respect the equal rights of men and women and non-discrimination based on gender. Such movement has been started since the beginning of the second half of twentieth century, In order to ensure the rights of women and the elimination of discrimination against them. It has been accelerated in recent decades. They attempted to ban Forms of oppression, discrimination and existing inequalities, with the rules and regulations in the forms of the declarations, and the statutes of countries to establish equality though in practice it may be misusing the principles. Regarding principle of equality of men and women in the access to financial resources, there are challenges

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between schools, religions and different cultures. The Islamic Republic of Iran tried to establish the relative balance of rights and obligations for spouses. The purpose of this article is to compare the cost of maintenance between Iran and English law, in addition to providing a better understanding of this issue, to assess the cost of maintenance in both countries and to answer such question that: Regarding to the cost of maintenance, the Iran law is more appropriate or the English?

As the research, hypotheses can be said; regarding that in Iran, law women are financially independent. In addition, there is no any obligation to do cost of maintenance for her husband. In contrast, in English law since 1960 afterward the one-sided cost of maintenance from the husband toward his wife has been reduced gradually and turned into a mutual obligatory.

Cost of maintenance of the wife in Iran law

Wife and husband shall help each other in managing the family. However, since the man is in charge of managing such group, the legislator considers him who is obliged to provide sustenance for the family, so that Article 1106 of the Civil Code appropriately states “In permanent marriages, the husband is in charge of providing cost of maintenance for the wife”. Husbands obligatory to pay cost of maintenance are from the functions of husband presidency in families (Katoozian, 2011).

Nature of wife's right in costs of maintenance

Meaning and concept of cost of maintenance and its limitations

Disbursement means “Spending” and Cost of Maintenance is a noun of disbursement. In terms of Civil rights, it is spending on food, clothing, housing, furniture, and the servant in accordance with the legal appropriateness regarding to the status of the couple (Jafari Langeroodi, 1998). Arab scientists also have different definitions of alimony. The best definition of cost of maintenance is originated from ‘Deaths’ that is known as the meaning of gone, wasted and spending. According to the Zamakhshari theory, each terms, which it's first letter starts with F and second one started with N means exit and go, such as: “Nafagha”, “Nafakha ”. Wife cost of maintenance is also known as cost of maintenance that what the man spends for his wife, such a way that his money has been spent and is spent for his spouse life (Abedin & Amin, 1996). Previous Article 1107 Civil law stated the definition of cost of maintenance for wife: Alimony is the housing and furnishings, clothing and food, which is typically appropriate to status of women and servant in case of wife's habit or her need to have servant because of disease or physical impairment.”

The mentioned Article has stated only housing, food, clothing, furniture and servant and has not stated the other things, which legally are the wife's requirements such as medical expenses, make up and wash. The appearance of the law stated that such expenses are excluded according to what the groups of Imami jurists' sayings (Mohaghegh Qomi & Jeilani, 1991).

However, acceptance of this idea is against the family and community interest and was not matched with common tastes and norms. Therefore, the idea of some legal experts (Saffaei & Emami, 2010) was that what is written in Article 1107 is not limitative and anything, which is considered as wife's common requirements, included in cost of maintenance and husband shall provide it for the wife. The significant thing is that the husband must, as the president of the family, must be responsible for fulfillment the needs of the wife and his children. Everyday lifestyle change creates new needs and these needs cannot be confined within certain framework and inevitably must be arbitrated by norms (Katoozian, 2011). For instance, wife's therapy and drug costs are considered as the cost of maintenance. The husband is in charge of that; such a way if a wife shall stay in hospital for giving birth or any surgery, the costs of hospital and necessary drugs is on the shoulders of the husband since norms considers such expenses as the cost of maintenance.

Above meanings were inferable out of the term “needs” which is written within the following Article. Some of the great scholars, like the owner of Jewelry (Najafi, 2001) and the owner of profession (Thani Martyr, 2001), after their criticize against the ones, who have limited

cost of maintenance to pre-determined things and excluded the cost of medicines, perfume and kohl, preferred the reference to norms for determining the content of cost of maintenance.

Therefore, in definition of the wife's cost of maintenance we can say, "All items that she requires due to the degree of Civilization of a woman, living environment, and her physical and mental condition" (Katoozian, 2011). The determination of these items should be considered as wife's cost of maintenance is regarded by the norms and it has no fixed criteria. Lawmaker, in the revised article approved on 2002, has confirmed the mentioned interpretation with amendment of Article 1107 of Civil law. We read the cost of maintenance consists of all reasonable needs and commensurate with the status of women, including housing, clothing, food, furniture, medical, health costs and servant. In case of wife's preference or her certain need due to a disease or inability, the difference of this Article with the previous one is that; Firstly by using the terms "including" stated that the items are not limitative and secondly "the therapy and health costs" have been added to the previous Article.

However, in wife's cost of maintenance, in accordance with revised Article 1107 of Civil law, the status and requirements of women are commonly the basis in practice, not the status of men. Then if the wife came from a propertied family, the husband has to furnish her life according to her family and her social status (Saffaei & Emami, 2010).

The supreme court through the vote number 23/292 has confirmed this idea described below:

"Article 1107 of Civil law the quality of the cost of maintenance is on the shoulders of the husband, appropriate to the status of the wife and in case of her habit to have servant or her need for more costs on housing and food, she has the right to take such costs from the husband (Kamangar, 1964).

Although in revised Article 1107 of Civil law, the determining criteria of cost of maintenance is only the status of the wife but it seems the financial status of the husband shall be considered as well, because the man and the woman created a family after marriage and they are not separated. (Katoozian, 2011), and in addition the woman has accepted her new situation after the marriage with the man, therefore, if a rich man marries a poor woman, has no right to determine the amount of cost of maintenance for her according to her past life. Likely, if a rich woman marries a common laborer, she cannot expect him to provide a luxurious life. Then one should accept that "woman status" refers to her mental and physical condition in the family after the marriage (The same, 174). Of course, to approve the above idea, we can rely on Article 47 of new law of family support approved on 2013, which says, "The court in case of the woman request or other cost of maintenance people, will determine the amount and the type of payments of cost of maintenance to them". The mentioned Article, unlike revised Article 1107 in Civil law, does not postulate her situation as the criterion for the couple cost of maintenance and although this Article has not encounter Article 1107 as an implicit version of Civil law. However, it seems that by giving more authority to the court and failure to re-affirm the determination of wife is cost of maintenance regarding to her status before marriage, in fact, we have considered financial status of the man as well to provide better social discipline and led to hardship for the couple.

In permanent marriage, this duty of man (providing cost of maintenance) is led from the rule of law. It has no contractual root in accordance with Article 1106 of Civil law "in permanent marriage, wife cost of maintenance is on husband's shoulders". Because of that, the parties cannot cease such duty of the husband during or after marriage. Also if during the marriage, mention that the wife has no right of cost of maintenance, such condition due to contradiction with *jus cogens* (Illegitimacy condition) has been cancelled, it is not diriment of the marriage (Saffaei & Emami, 2010). However, in concubine marriage, the obligation on the husband for providing cost of maintenance has contractual root. In case of decree on obligatory, spend by the husband that the two

parties compromised or the marriage has been done on such basis. Article 1113 of Civil law stated, "In concubine marriage, the woman has no right for cost of maintenance, unless it is stated or the marriage is done on such basis", circumstances, duration of marriage, shared residence, having children and other items can be the base of both parties for marriage (Katoozian, 2011)

Nature of wife's right of costs of maintenance

The purpose of the essence or nature of a woman's right for cost of maintenance is to determine whether the woman become the owner of what the husband give her as cost of maintenance or only the permission for exploitation has been given to her and she can only utilize it and has no right to lien as an owner. If a woman owns anything, which has, been given to her as a cost of maintenance, can do owning lien on it, so to sell or give it but if the permission for exploitation has been given to her, she has no right to do such liens without the permission of the owner of the property. In order to determine the nature of woman's right on cost of maintenance, we shall do refer to husband's volition, norms and habits which are interpreter of volition of the parties (Saffaei & Emami, 2010). To reply this question, we shall differ between the consumable properties and the ones remain with exploitation:

About the consumable properties, the owning of the property by the woman shall be accepted, because about them, the right of exploitation is not separable from the ownership and the appearance is that the husband has given them the ownership of the property. Therefore, the woman become the owner of the money which has got for providing food, soap or the perfume has been given to her and whatever she saves due to parsimony, belongs to her. However, we should know that the children cost of maintenance and the cost of providing food for the husband and the members of the family, are delegated to the woman generally. The woman does not own them, therefore, it shall be consumed for that specific purpose and the woman in consuming such costs is as the manager and keeper for the husband. About the remaining properties, the determination criterion is the purpose of the husband. Determination of the woman right is based on norms: in terms of customary, the husband does not give his house and furniture to his spouse and only gives her right for exploitation of them and it is because of that he can always return from this permission and give her another house for cost of maintenance. Inversely, customarily the dress or the jewelry, which the husband bought for her, is seemingly given to her and the woman owns it. Despite this, since in performing his legitimate duty give the owning of these properties, we shall not encounter her as a stranger on how she possessed. In fact, a member of the family owns these properties; the family, which the husband supervises, it and he are responsible for fulfilling the expenses of it. Then we shall accept that the woman is not free in her possessions and she has to obey the limits of norms.

Conditions of responsibility of costs of maintenance and its preventers factors

The obligation of cost of maintenance will be established for the man when in addition to marital relationships with his spouse, his wife obeys him since the lawmaker on Article 1108 of Civil law stated that: "Whenever the woman, without any legitimate hurdle, refuses to comply with her marital duty, she will not be deserved the cost of maintenance".

Therefore, if the woman refuses to live with her husband in a place, without a logical reason, or she does not cooperate with her husband about the basis of their family, or to be neglect towards the legitimate requests of him about having relationship with others, she will have no right to be cost of maintenance. Such woman is called "adultery" and her status is called "adultery". Refusing from marital duty is considered as "adultery" when the woman has no legitimate excuses, therefore if a woman due to physical, financial or honor refuses to stay in place, this Action does not cut providing the cost of maintenance (Article 1115). In addition, whenever the woman utilizes the right

of lien and conditioning the obedience from the husband on receiving her dowries, such prevention, does not ruin her right for getting the cost of maintenance.

The most important question, which will be asked about the cost of maintenance, is that, Does obedience is the condition for woman to deserve getting the cost of maintenance, or disobedience refuses receiving it? Or in another words, whenever the wife request her maintenance through court, does she have to prove her martial relation in addition to marriage relation or the prove of adultery is the responsibility of husband to reject the right of spending on his wife. This issue is somehow different in Imamieh Faqih.

The idea of some of the scholars is that after the proof of parity, the woman in order to receive the cost of maintenance shall obey her spouse and only proof of marriage is not enough to receive the cost of maintenance. Therefore, the cause of cost of maintenance in this view, is proof of marriage and the proof of obedience, because the principle is the unwilling of the wife and the wife shall prove her obedience to receive the right for cost of maintenance by the court (Thani Martyr, 2001)

Another idea among other scholars is that only the proof of marriage obliged the man to give the cost of maintenance to her wife. The only thing, which ceases it, is the disobedience that prevents giving for the cost of maintenance, and such proof of disobedience is on the shoulders of the man, so the principle is on the obedience and disobedience is the obstacle for cost of maintenance (Najafi, 2001).

Regarding to Article 1106 of Civil law stated, "In permanent marriage, the wife cost of maintenance is on the shoulders of the husband". In addition, Article 1108 of Civil law stated, "Whenever the wife prevents the marital duties without legitimate reason, she does not deserve the cost of maintenance". We can say that Iran Civil law obeys the second theory, because the proof of marriage by the woman can be enough for cost of maintenance and the court will announce the decision on her benefit, unless the husband prove that the woman prevent doing obedience without any legitimate reason. In addition, the Supreme Court in unity vote number 2614m, which has been issued in 1937 has confirmed such contents and stated that Proof of parity for cost of maintenance is enough. Unless other items prove lack of deserve of the woman and the province court argumentation is not true about that issue that acceptance of marriage means is the reason to force husband to work and if he does not work, the marriage will not be wrong.

Characteristics of wife's costs of maintenance in comparison with relative's maintenance

Relatives in vertical line also are obliged to spend cost of maintenance but the obligation of spending the wife cost of maintenance are different in some aspects as follows:

Wife cost of maintenance is prior towards relatives cost of maintenance. Article 1203 of Civil law stated: "In case of existence of the wife, and one or more other people, the wife is in priority to spend cost of maintenance" so, if a person is not financially capable to give cost of maintenance to his wife and his relatives, his wife is in priority."

The woman can ask her old cost of maintenance and ask for arbitration in court, while the relatives can only claim for the future cost of maintenance." (Article 1206 of Civil law)

Wife cost of maintenance is not conditioned to her poverty or obedience from the husband: the woman, although to be rich, can ask for cost of maintenance but in relatives cost of maintenance, poverty in one hand and obedience in another hand are conditioned (Articles 1197, 1198 of Civil law). In addition, in evaluating the wife cost of maintenance, the economic status of the husband has not been considered, while for the relatives it is determined based on the man economic status, and such duty is limited to how much he can afford (Article 1198 Civil law).

The wife cost of maintenance, is one-sided and in the Iran law, never a woman is obliged to give cost of maintenance to her husband, while the relatives cost of maintenance is a counter duty.

The request of the woman for cost of maintenance, is a privileged demand and in case of bankruptcy or husband death and lack of valuable properties for cost of maintenance on other types of debts. However, relatives cost of maintenance has not such characteristic, except children cost of maintenance.

Wife's costs of maintenance after disappearing marriage

Law, the husband is in charge of providing family sustenance. Therefore, the obligation of paying cost of maintenance continues until we can call him the husband or the holder of the family. After dissolution of marriage, the cohabitation of man and woman disappears and principally, the husband is not responsible for paying cost of maintenance unless in some exceptions which are as follows:

Returned permanent maintenance

Regarding to the first paragraph of Article 1109 Civil law, "The revocable divorced woman cost of maintenance is on the shoulders of the ex-husband during period of lack of martial relation". Unless the divorce occurs during the disobedience period" the reason of belonging cost of maintenance to the woman in the days is that after the revocable divorce and during the period of revocable, the marital relationship has not been finished completely and in these days, the effects of marriage are remained and idiomatically "the woman is the wife".

The pregnant wife's maintenance in the period of lack of martial relation during separation or divorce

According to second paragraph of Article 1109 of Civil law "if lack of martial relation" due to cancellation of marriage or irrevocable divorce, the woman has no right for cost of maintenance unless being pregnant, in this case until giving birth she has the right for cost of maintenance". The reason of giving the cost of maintenance during these days is because the child, otherwise the marital relationships have been completely finished.

Wife maintenance enforcement guarantee

Husband's duty to give the costs of maintenance from wife has as numerous guarantees (Civil and criminal)

Civil Enforcement grantee

Civil Enforcement grantee of cost of maintenance has been set on Act of 1111, 1112 and 1129 of the Civil law. Article 47 of the new law of family support Act 1/12/139 court will determined amount of maintenance and the way of payment regarding wife's request or other people who can get maintenance (Act of 47 low of family supporting)and also its article provides. About this Act and other Acts that based on court's ruling, amount of money must be continually received from Condemned 1, so one time is enough to issue executive. In addition, Executive operation continues as long as other command is not issued from the court. For future maintenance wife can ask the court her husband's requirements to get the maintenance. For getting maintenance, proving compliance is not necessary too and husband must give the reason of adultery as a defense to the court and about the argument on cost of maintenance the husband must be claimed unless appearance of marriage and evidence be in his favor and be the evidence of maintenance payment. If the implementation if court's rule regarding the payment of wife's maintenance by husband were not possible based on husband refusing deliberately, unavailability of property or failure to pay her maintenance, the wife can refer to the governing for divorce.

The Criminal Enforcement grantee

According to Article 53 of the new Act, the Family Protection (Adopted 2012), everyone could afford to pay his wife's maintenance. If he does not or refuses to pay the others share of maintenance will be sentenced to 6 grade of imprisonment, (imprisonment for more than six months

to two years) criminal prosecution depends on the private plaintiffs and whenever they pause their complaint, criminal prosecution or penalty will be suspended.

Clause - refusal of wife's maintenance who is allowed to Failure to obey accordance with the law, and costs of maintenance of children due to artificial insemination children under supervision are Subject to the provisions of this Article. It should be noted that leaving indictment form wife, is not financial seizure and requires no growth. Therefore, wife can prosecuted her husband without the consent of parent or guardian to the crime of leaving. It seems that the punishment is dedicated to the person who avoids paying the costs of maintenance. Otherwise, refuse of husband to pay the past maintenance based on reasons like Family interests, durability and interpretation of the doubt in favor of the defendants is not Criminal prosecution against the principle of punishment. In religion and appearance of the law and it is just a normal demanding religion and even lack of payment is not a license for divorce because it is not lead to wife's hardship in continuing life and paying future maintenance will lead to sustainability future life. However, the husband is owed to his wife because of past maintenance. According to the new law to the protection of family and its implementation (2) and predictions of punishment for leaving to the responsible of maintenance that ignores his duty, it should be mentioned that, Article 642 of the Penal Code section has been implicitly abrogated.

Costs of couple's maintenance in England Law

Types of costs of maintenance in England law

There are several terms in England for costs of maintenance, that each of them has special situation that will be presented in summary:

Continuous costs of maintenance: It is a special prediction in England's law that based on it, husband can be in charge of keeping and providing his wife's life, needs in all his life time, even after her die by mentioning some conditions. While marriage or in separate contrAct.in these cases, if husband dies before his wife, husband's heir is required to pay the predicted money from the legacy of the decease (Guffney, 2012) but commitment to ongoing maintenance requirement can lead to benefit for husband from his wife.

Maintenance deposit: Maintenance deposit is the strategy, which is predicted to Obtaining secured for good performance of the obligation by the husband based on maintenance payments and supporting wife. Sometimes husband transferred funds to someone as a trustworthy person to secure property and wife can use its benefits as much as predicted as beneficiary after divorce or separation (Burton, 2010).

Maintenance trial proceedings: If husband and wife are living apart from and while divorce has not been stated yet, in this case, to the court order, up to determining the situation between them, amount of money will be determined that must be paid to the wife and children (same, 52)

General maintenance: In this concept, maintenance refers to paying money at regular intervals. This case constitutes couple's property settlement and final separation. Therefore, in many judicial decisions, this case does not include maintenance idiomatically, because couple's property will be separated from one another at the time of divorce, with detailed audit and in these cases, usually amount t of money is given by the husband to the wife that she cannot have claim on assets than the husband (Guffney, 2012).

Liability to pay maintenance of marriage

About the issue who (husband or wife) responsible for the payment of maintenance caused by marriage, generally, England law can be divided into two periods (1 - from 1958 to 1973 and 2 - since 1973 up to now) and each of these periods follow certain rules. However, currently rules governing on maintenance are lows that have been implemented since 1973 but referring to its previous period (1958 to 1973) is useful in many ways that we will describe both courses here.

England law from 1958 to 1973

Since 1958, however, the provisions for providing maintenance do not occur for husbands, only in certain special cases a woman may be required to provide maintenance to the husband and children (1989). Pad field and this issue is emphasized in the numerous laws (Elizabeth, 1990). However, since men have been traditionally regarded as breadwinner for the family and even maintenance will not be considered as a mutual duty and mutual commitment to each other. Wife's duty to providing maintenance to the husband is an exception to the principle and is subject to specific wording of the law or judicial decision, so according to the latest available resources, we are going to discuss about this issue.

Maintenance limitations: The representation of women in necessities, was abrogated in its previous form based on litigation and property law on marriage approved 1970 (Bromly, 1976). Nevertheless, areas of husband 's responsibility is still important Common Law because it constitutes Basis of the new law (same 498) According to the common law, the husband is obliged to provide wife's maintenance but there's no reciprocal duty for wife to provide it (Miller, 1974). The duty of the husband to provide wife's maintenance is due marital status and English lawyers who know this obligation stems from the commitment that husband has been undertaken during the marriage in order to b his family financing (same 106)

This commitment of the husband will be fulfilled, when firstly, he can provide a suitable home for his wife and secondly he can provide necessities of life such as food, clothing, medical expenses, travel expenses etc. (Miller, 1974). Wife doesn't have right of separated maintenance in independent house except in case of prove the necessity of living apart from husband (Bromly, 1976) but is she lives with husband in one house, it is assumed that she has her husband's implicit will in providing (buying) life's necessities and therefore she can continue to buying based on her husband's reputation. This is not for marriage, but its derive from typical role of women as housewives (Miller, 1974). Since husband is in charge of managing family expenses, shopping and puts all or part of money regular or irregular periods to wife, wife who buying is regarded as one of her daily routine and it can be inferred that her husband has chosen her as his representative outside the home. However, unlike the past husband can explicitly prohibit wife from any purchase to his credit and there is no need to inform shopkeepers and traders from this ban. If previously, husband introduced his wife to a special businessman as his representative, in this case it's necessary to notify businessman about the issue that wife is not allowed to purchase based on what above. In addition, the husband can put the assumption of implicit will with proving the issue that he previously gave needed maintenance to wife. It reminds that in this period, the obligation to provide maintenance to the wife be based on his financial strength (Cretney, 1976)

Maintenance precedence over other obligations of the husband

People who need maintenance, that man is obliged to provide it for them are including his former wife and her children and housewives, waitresses under some circumstances in addition to current wife and children. There is no point to providing maintenance for parents in all definitions that came for maintenance. people who are able to get that and it seems that typically wives and children are those who are deserve to get that and man's duty to provide maintenance to women and children have the same importance and apparently, there is no priority in this area. As husband becomes bankrupt, wife's rights regarding maintenance may also be undergoing this condition. Thus, under the statute, the court may issue appropriate orders in this regard. Although, Bankruptcy may limit the power and ability of husband to provide wife's maintenance, does not exempt him from fulfilling such obligation (Bromly, 1976). The court-appointed trustee special bailiff) that he has all the assets of the bankrupt can provide the bankrupt dependents maintenance and his family from these properties and if bankruptcy trustee will be authorized to commission of inquiry he can

do that. Furthermore, the bankrupt himself can allocate his personal income into this issue (same 499). There is no constant strategy whether the husband's maintenance commitment has priority over other debts or woman can claim or not with a judgment about his husband's bankruptcy. What Couple might spoil creditor rights of husbands by their collusion and make them failed. Hence, as a rule, wife's claim regarding maintenance depends on husband's creditor claim. So that a ruling regarding previous days maintenance cannot be claimed in bankruptcy (same 426) At justification for this rule that is relate to social policy, it should be stated that, Marriage is a partnership and no one should be allowed to claim against the other unless all other partner's debts is paid.

However, this argument has been criticized because of the confusion between marriage social partnership and individual's business partnerships (same 427)

Inability or refusal of the husband to pay maintenance: If husband will be disabled to pay maintenance for some reasons, so that the continuing of living is not possible for wife. In this case, she can request the court to divorce, but if the husband cannot manage his property and affairs related to afford maintenance because of unbalance, here, competent court has ability to issuing the sentences and appropriate arrangements somehow this situation can be compensated. In addition, he court may do reconciliation or a gift form husband's property in wife's benefit. So that we said, the statutes have been predicted some issues in which husband are obligated to pay maintenance to wife under circumstances such as litigation property law relating to marriage in 1970. Whereby, if husband due to illness or disability of earning money cannot provide that and wife is in good financial situation, the court can make the wife obliged to pay her husband maintenance (Mental Health Act 1959 ss.101, 102). Its noticing that at this time husband's commitment to provide maintenance is mandatory and wife's financial status and its level in commitment is Ineffective. Hence, in case of deliberate negligence, in addition to demanding the right to divorce by wife under the circumstances, the courts in accordance with the current laws have the authority to issuing maintenance sentence. Obligation of husband to do that in various ways, which is refuse to be mentioned here because of the need for broad discussion on jurisdiction and the court's rulings that can be issued.

Fall of maintenance:

We know that when the marriage occurred, Presumption of law arises whereby the husband is obliged to provide maintenance to wife and husband can never take unilateral action to revoke (Bromly, 1976). But the wife may lose that right by her Actions, Generally wife's right to maintenance, has a close relationship with her duty in agreement with husband so if her involvement will be in a way that exempts husbands from his duties in their life, in this case the wife will lose her right about maintenance. This principle is especially important when a woman committed adultery. With adultery, woman's right to maintenance will be suspended and as long as continues in this manner, deprived of this right. But after finishing adultery, the right will be established again (Miller, 1974) that is obvious that wife who is living apart from husband because of his adultery, or due to his husband's bad tempering is forced to leave home and she had no fault in causing this condition, her right to maintenance is still safe. If woman commits illegal even for one time that is not negligible and all her rights about maintenance will be toppled and one of the reasons of issuing divorce is this. If woman behaves in a manner that would create a reasonable doubt in a man that her wife has illicit relationship even though husband was wrong in diagnosing reasonable fields for this speculation. The wife will lose own rights with respect to maintenance (same 106). If the husband despite knowledge of such a relationship ignores and condones that, or his negligence or improper behavior may cause such results. In this case, his commitment to providing maintenance would remain (Bromly, 1976). Whenever a woman goes demented during adultery, in a way that completely loses her will. In this case, from the occurrence of insanity, her right towards the

maintenance will be renewed because adultery will end insanity (same 498) In case of dissolution of marriage through divorce, husband's commitments will end as well and financing and it entirely depends on the law and a court ruling. Currently, there is a comprehensive legal system in relation to the financing and adjustment of financial rights of couples in case of divorce or nullity of marriage (Miller, 1974).

England law since 1973 till now

From 1973 increasing, financial independence of women in the England was followed the prevalence of divorce. Legal attitudes toward the rights and duties of men and women have been changed in families. So that the court making it possible during divorce or annulment of marriage, each partner is required to pay maintenance to the other periodically but under certain conditions that the court determines (Burton, 2010) and also each of them are obliged to pay maintenance to their children or child (matrimonial Causes ACT 1973). Court may issue some injunctions regarding the maintenance based on its sole discretion in relation to the a dispute of divorcing between couple that includes following items (Burton, 2010).

Ruling in which each party of the marriage are required to pay alternative costs against each other according to the specified requirements.

Ruling in which, each party must attract the other's satisfaction in court to paying alternative costs as were, mentioned before.

Ruling in which, each party should pay costs to the other party as determined before.

Ruling in which, each party of the marriage must have responsibility to the other party about keeping children, cost and certain amount what the court has determined.

Ruling in which, other party of the marriage is obligated to draw court and the party's attention who is responsible for child based on issued rules.

Ruling in which, one party of the marriage must deliver certain benefits for the child (a child who is on the other side), in accordance with previous agreements.

So that it can be seen from 1973 onwards, Husband's responsibility to pay maintenance to the wife and kids reduced unilaterally and in some cases, the court awarded the responsibility of paying maintenance to wife's shoulders. Another development in 1978 was the issue that, according to Domestic Proceeding and magistrates Court ACT 1976, conditions of demanding maintenance from wife to her husband was changed relative to the former. So that with woman's request, ratio of family Financing (wife and children), from the court, factors such as employment and income levels, amount of the assets, wife's property and ownership and also government's financial assistance, as well as insurance premiums and pensions took into court's consideration. In this period, the court does not accept wife is refusing from employment with the enjoyment of health and physical strength without legitimate excuse. The court will not let such a woman to have financial dependence. In addition, about the issue of divorce and demanding financing from wife to the husband (for herself and her children) from court, with a justified excuse, the court considers the following factors in determining maintenance:

Husband's financial situation and amount of income,

Evaluating the cost of a new wife and children (if the man remarried),

Divorced wife's age and physical condition and her ability to work

Couple's life period before divorce (Obviously, the longer lifetime so more maintenance is awarded).

So, if the court can prove that both parties are employed after divorce and both are able to provide financial affairs, for themselves and for children (that are usually under Wife's dependency) so the maintenance does not does not allocate to anyone. However, in mentioned conditions, the court may obliged husband to pay the maintenance (completely or sharing that) to his child or

children. The court is responsible to determine the situation that can issue the rule (Burton, 2010). After family law Act in 1996 and its further changes, which were affected by Commission report "Principles of Family Law and Divorce", the condition related to maintenance were changed somehow. That legal obligations towards husband's financial, responsibility against his wife disappeared. Therefore, the condition has been changed in to this orientation, that couple has to provide their own maintenance after marriage. There is no obligation to other events or agree that providing family's maintenance is jointly responsible for both but in a situation that each of the couples base on marriage Stipulation or after that, made themselves obliged to pay other's maintenance as well. Such a provision is legal and must be applied (Guffney, 2012). A new low's less attention to financial and low condition of couples socially husband's financial obligation towards his wife are remarkable characteristics of this law. it seems that the text's goal is to set the law and financial affairs of couples to determine their way of providing life's costs according to their agreement.

Conclusion

Costs of maintenance wife's foe are including her life necessities. Enshrined items in law, is allegorical, however there are difference between Jurists regarding the criteria of costs of maintenance determination (former situation of wife and current situation of husband). However, lawmakers considered wife's firmer situation as a criteria and it is obvious that accurate implementation of above criteria may lead to results such as:

Difficulties and easiness of couples relation.

In case of lack of appropriate financial resources and wife's life situation before, Lack of full enjoyment of wealth for wife in case of not having a great situation of life and husband's wealthy situation after marriage.

To avoid the above problems it is essential to consider the husband's situation in charity criteria and its referring to the customary conditions is adapted with family's best interests. However, the willingness of courts to issue injunctions relating to maintenance is somewhat like this.

Financial in dependence of a married woman and the issue that she is not obliged to pay the costs of maintenance will be have some benefits for wife. That's a part of Iranian law, which is towards wife's complete welfare about financial issues and obligation of husband to pay the costs of maintenance and creating legal and religious responsibility for him is part of husband's leadership to the family.

About the nature wife's right on maintenance, the most important criterion, are customary laws that law enforcers referred to that in ambiguities between parties because, the assumption is based on the obligation of the parties to observe the customary rules.

Provisions relating to the maintenance in permanent marriage for respecting family interests are a kind of order unlike maintenance in marriage that has contractual aspects.

The wife's maintenance in Iran's law in comparison with maintenance of Arqab has special rates, which reflect the priority of individual families, than other financial obligations of couples.

After the dissolution of the marriage, the assumption is based on lack of husband's spending for wife except in special case.

Regarding the special importance of the issue of wife's maintenance in Iran's law created specific guarantees to oblige husband for paying that.

In England law, like Iran's Law, maintenance is including necessities of life and has several different types (continuous, deposit, general, etc.).

In England law until 1958 providing maintenance provisions was perform against husband, but after that, gradually, wife will be obliged to pay maintenance to family.

After 1973, with increasing financial power of women in the England and somehow recognition of their capture in managing their finances completely, issuing maintenance principals against husband subject to certain conditions that court in conformity with the conditions issued Sentence of requirement the provision of wife maintenance against husband.

From historical aspect of rules related to cost of maintenance in England law it can be said that, its regulation will be going out of matter of law and has been moving toward contract situation. So that from 1996 onwards, the requirements derived from maintenance of marriage period is caused by couple's agreement and a proximately the former legal regulations disappeared and the reason for this is due to two cases:

Employment of women that was almost epidemic

Government's support of people, who did not work and use unemployment Insurance

In terms of adaptive, it can be said that in Iran's Law, according to the ordering of rules related to maintenance, life period derived from permanent marriage, financial independence of married women. In Iran's Law, according to the issue that wife does not have any obligation for paying maintenance of family, she can proved in court that used her own money and property. Her husband's order for ordinary expenses of living together, which is the husband's responsibility cannot afford that and also he cannot prove the wife's freedom can receive its equivalent as well.

Reducing husband's obligation for family in England' law or more and even in complete interest to the agreement, may reduce the obligation of husband. However, it will lead to more interest in women to work out, enough opportunity to marriage and lack of peace in family that this issue will lead to reduce of willingness to marriage and increase the interests in divorce.

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